IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Bail Appl..No. 3709 of 2007()

(CRIME NO. 70/2007 of KOZHINJAMPARA POLICE STATION)

PETITIONER/1ST ACCUSED:

MUTHU @ PRADEESH, S/O. PRABHAKARAN,
AGED 23 YEARS, PULINTHARAYIL, KUDAVACHAR POST,
VAIKOM, KOTTAYAM DISTRICT.

BY ADV. SRI.D.CHANDRASENAN

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR, KOZHINJAMBARA POLICE
STATION THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. JAI GEORGE, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.3709 of 2007

Dated this the 28th day of June, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Section 326 r/w 149 I.P.C. That is the only non bailable offence alleged against the petitioner. The learned counsel for the petitioner submits that even if the entire allegations were accepted, no offence under Section 326 I.P.C will be revealed. If that be so, all other offences are bailable and the petitioner may be permitted to be released on bail on his arrest, submits the learned counsel for the petitioner.

2. The learned Public Prosecutor was requested to explain whether the victim has suffered any injury which would qualify to be a grievous hurt falling within the sweep of the definition of `grievous hurt' under Section 320 I.P.C. The learned Public Prosecutor submits that there is no specific material now available to indicate that the injury/hurt suffered would qualify to be a grievous hurt as defined under Section 320 I.P.C. Tenden has been cut. Except that, there is no better material presently available. The same cannot be reckoned as a grievous injury under any of the clauses of Section 320 I.P.C now. In the absence of better evidence to bring the same within clause fourthly or fifthly of Section 320 I.P.C, I am satisfied, that powers under Section 438 can be invoked in favour of the petitioner.

3. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 05.07.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 4 p.m on 06.07.2007 and thereafter between 10 a.m and 12 noon on all Mondays for a period of two months. Subsequently as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 05.07.07 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 05.07.07.

(R.BASANT, JUDGE)

rtr/-